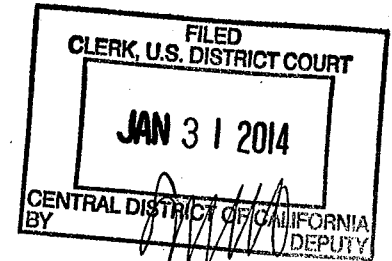


UNITED STATES DISTRICT COURT
FOR THE CENTRAL DISTRICT OF CALIFORNIA



Sergio Ramirez,

Petitioner

vs.

United States of America

Respondent

Case No: CV 13-7793-GAF

CL 09-229-GAF

REPLY TO GOVERNMENT'S OPPOSITION TO PETITIONER'S MOTION TO
CORRECT OR SET ASIDE A CONVICTION BY A PERSON IN FEDERAL CUSTODY
PURSUANT TO 28 U.S.C. § 2255

COMES NOW, Sergio Ramirez, hereafter, Petitioner Ramirez and responds to the Government's Motion in Opposition.

The Government's incorrectly claims that Petitioner Ramirez did not raise a claim of collusion in his Motion For Relief. In fact Petitioner Ramirez specifically claimed that the Federal prosecution beseiged the State of Clifornia's prosecution in an exact replica or mirror image indictment. Plainly stated the Federal prosecution was built solely off of State evidence, right down to the State's lab test reports. Further, Petitioner Ramirez has stated that the Federal prosecution was a sham as the opportunity for "inter-sovereign cooperation" passed when the Federal Government declined the initial prosecution in which the State of California picked up. Additionally, Petitioner Ramirez stated that the Federal investigation ceased when the Federal officers of the joint task force turned their records

over to the State of California. Petitioner Ramirez will be forever prejudiced without both the opportunity to conduct discovery pursuant to Rule 16 and an evidentiary hearing where his former attorney may give appropriate testimony regarding the inner workings of both the State of California prosecution and the Federal prosecution. At this time, the Government has not offered any rebuttal evidence related to Petitioner's claim.

The Court has ordered evidentiary hearings when the factual record does not support the Government's conclusory statements, as is the case at bar. The Government has failed to address Petitioner's Bartkus claim. An evidentiary hearing would aid in the factfinding process to aid in determining the extent of the Federal Government's involvement in successive prosecution's. SEE: United States v. Beruhardt, 831 F.2d at 183. The Fifth Amendment guarantee's that a defendant shall not be twice placed in jeopardy for the same crime and the Government has failed to show any interest of justice in this duplicitous prosecution.

Petitioner Ramirez has also advanced a claim of ineffectiveness of counsel related to his counsel's failure to seek a downward departure regarding "fast track". Once again, the Government has failed to offer any evidence regarding his counsel's failure to negotiate a more conducive plea agreement, espically in light of Petitioner's claims of Double Jeopardy. This court has routinely granted downward departues to people of like circumstances and counsel's failure to request such, is a deficient performance pursuant to Strickland v. Washington.

CONCLUSION

In a nutshell, Petitioner Ramirez has suffered a Doubly Jeopardy violation of a most egregious nature. One fact remains constant in this case at bar, the Federal Government declined to prosecute this case and allowed The State of California to do so. Then once the Federal Government decided to prosecute this case, they issued word for word, mirror image bill of information and did not allege one single new fact, in violation of Bartkus. Petitioner Ramirez has suffered actual prejudice as a result and stands on his previously asserted Fifth-Amendment violation.

Respectfully submitted,

Sergio Ramirez

Sergio Ramirez, Petitioner, pro se

Registration #: 56249-112

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UNITED STATES DISTRICT COURT
FOR THE CENTRAL DISTRICT OF CALIFORNIA

Sergio Ramirez,

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Case No: CV 13-7793-GAF

CERTIFICATE OF SERVICE

On the 22 day of January, 2014, I did place a true and accurate copy of this Motion in Opposition in the United States Mail, postage prepaid for delivery to:

Clerk of Court
Central District of California
Los Angeles, CA 90012

with copy to: U.S. Department of Justice
United States Attorney
312 North Spring Street
Los Angeles, CA 90012

Sergio Ramirez

Sergio Ramirez, Petitioner, pro se

Registration #: 56249-112

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